

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.2779 of 2019

V.Sakkarai

..... Appellant/Petitioner

Vs.

1. The State of Tamil Nadu
rep. By its Secretary,
Home Department,
Fort St. George, Chennai - 600 009.
2. The Director General of Police,
Tamil Nadu Police Department,
Santhome High Road, Mylapore,
Chennai - 600 005.
3. Mr.Manivannan
3. Gandhi
5. Paulraj
6. Palanichamy

..... Respondents/Respondents

APPEAL filed under Clause 15 of the Letters Patent to set aside the order passed by this Honble Court made in WP.No.21452 of 2019 dated 23.07.2019.

Prayer in WP No.21452 of 2019:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st Respondent to issue necessary direction to the 2nd respondent to take appropriate departmental action as against the 3rd and 4th respondents herein and to take the appropriate action as against the 3rd and 6th respondents herein on the basis of the petitioners petition dated 09.07.2015 made to the 1st and 2nd respondents herein.

For Appellants : Mr.K.Kannan

For Respondents: A.Sri Jayanthi
Special Government Pleader - R1 & R2

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.,)

The appellant filed a Writ Petition before the Writ Court in W.P.No.21452 of 2019 for issuance of a Writ and more particularly in the nature of Writ of Mandamus directing the Director General of Police to take appropriate departmental action against respondent Nos.3 and 4 on account of their wilful negligence or rather carelessness in taking action pursuant to the complaint preferred by him. The Writ Petition was dismissed by the learned single Judge. Feeling aggrieved, the appellant has come up with this intra Court appeal.

2. The learned counsel for the appellant contended that even though a complaint was preferred by the appellant before the 4th respondent, follow up action was not taken. The same was the case with regard to the 3rd respondent also. He would contend that in order to help the 5th respondent, who is stated to be the landlord of the land in question, respondent Nos.3 and 4 colluded together and failed to take appropriate action.

3. The matter relates to the right claimed by the appellant under the provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act XXV of 1955). According to the appellant he was declared as a tenant by the competent authority. However, there was interference in his possession at the instance of the 5th respondent. Even though a complaint was preferred against the 5th respondent before respondent Nos.3 and 4, necessary action was not taken and the same resulted in filing Writ Petition. According to the appellant, respondent Nos.3 and 4, in order to help the 5th respondent, failed to take action.

4. There is absolutely no merits in the contention taken by the appellant with regard to the alleged negligence on the part of respondent Nos.3 and 4. The Police has already registered a case pursuant to the complaint preferred by the appellant. In a case of a complaint making out an offence under the provisions of the Indian Penal Code or any other Statute, the police is bound to take action in accordance with law. However, that is not the case here. The appellant wanted departmental action to be taken against respondent Nos.3 and 4. It would not be possible for the Court to issue a mandamus unless there are materials suggesting misconduct on the part of the respondent Nos.3 and 4.

We are therefore of the view that the learned single Judge was justified in dismissing the Writ Petition.

5. However, we make it clear that in case a complaint is made by the appellant which makes out a case for taking action against the accused, necessarily the jurisdictional police should look into the complaint and action should be taken in accordance with law.

6. The intra Court appeal is dismissed with the above observation. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu rep. By its Secretary,
Home Department, Fort St. George, Chennai - 600 009.
2. The Director General of Police,
Tamil Nadu Police Department,
Santhome High Road, Mylapore,
Chennai - 600 005.

+1cc to Mr.K.Kannan, Advocate Sr.73486

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BS(CO)
srg 03/09/2019

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